IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE S.ANANDA REDDY**

**WRIT PETITION NO : 5009 of 1997**

Between:

M.Sai Baba, Asst.Depot Clerk,
Vidyadaharpuram Depot, Vijayawada.

**..... PETITIONER**

AND

1 The Managing Director
APSRTC , Musheerabad Hyderabad.
2 The Regional Manager APSRTC
Vijayawada , Krishna Dist.
3 The Depot Manager APSRTC
Vidyadharapuram Depot Krishna Dist.

**...RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents in not fixing the petitioners pay on par with his colleagues and consequently direct the respondents to fix the petitioner's pay duly taking into account of his initial appointment Dt: 26-4-73 and on par with his colleagues who are joined along with the petitioner.

**Counsel for the Petitioner : MR.S.A.K.MYNODDIN**

**Counsel for the Respondents : MR.R.Manmadha REDDY, Standing Counsel for APSRTC**

**The Court made the following :**

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**O R D E R :**

This writ petition is filed by the petitioner praying for a Writ of Mandamus declaring the action of the respondents in not fixing the petitioner's Pay on par with his colleagues and consequently sought for a direction to the respondents to fix the petitioner's salary, duly taking into account of his initial appointment on 26-4-1973 and on par with his colleagues who joined along with him.

2. According to the petitioner he was appointed as Conductor on 26-4-1973 and since 23 years he has been working in the Vijayawada Region. He suffered small punishments, such as deferment of increments, which shall have future effect and the same are without cumulative effect, since 1974 to 1988. The authorities concerned without any cogent reasons imposed the punishment, which is unjust, arbitrary and even though the punishments were effected till 1988, the authorities failed to fix the petitioner's salary duly affecting the Revised Pay Scales. It was also stated that the petitioner was promoted as Assistant Depot Clerk on 11-8-1990 by the Divisional Manager, APSRTC, Vijayawada. Even after promotion, the petitioner was paid only Rs.2,155/- while his colleagues were being paid Rs.3,455/-. In spite of making several representations the respondents failed to refix the pay. Hence the

present writ petition.

3. A counter affidavit has been filed on behalf of the respondents disputing and denying the contentions of the petitioner. It is admitted that the petitioner was appointed as Conductor in the year 1973. But it was stated that the petitioner had suffered punishments for 25 offences and the increments were deferred for varying periods apart from suspension while he was working as Conductor, and as such, he cannot claim that his pay has to be equated on par with his juniors, who were appointed in the respondent-Corporation along with him. Therefore, the learned standing counsel for the respondent-Corporation contended that the petitioner is not entitled for the relief sought for.

4. From the above rival contentions, the issue to be considered is whether the petitioner is entitled for the relief prayed in the present writ petition.

5. It is not in dispute that the petitioner was appointed as Conductor in the respondent-Corporation in the year 1973. But, however, he had suffered punishments as many as 25 times and on almost all occasions either there was a reduction in the scale of pay or there was postponement of increments with or without cumulative effect. Therefore, as far as the scale of pay as fixed in the post of Conductor is concerned he cannot claim that his pay should be fixed on par with his colleagues, who were appointed along with him. But, however, the petitioner was promoted as Assistant Depot Clerk in the year 1990. Thereafter, it is not the case of the respondent-Corporation that the petitioner had suffered any punishments. Therefore, the petitioner is entitled to fix up his pay as payable to an Assistant Depot Clerk from the date of his promotion as Assistant Depot Clerk, and thereafter, he is entitled for all increments that are available to the said post on par with other similarly placed Assistant Depot Clerks.

6. Therefore, it would be appropriate to dispose of the writ petition directing the respondents to consider the representation of the petitioner dated 25-10-1996 and pass appropriate orders clarifying the position. If the petitioner’s scale of pay is fixed

on par with other similarly placed persons, who were promoted along with him as Assistant Depot Clerks in the year 1990, the petitioner is not entitled to any relief. On the other hand, if there is any variation in the scale of pay of the petitioner and other similarly placed Assistant Depot Clerks, who were promoted in the year 1990 along with the petitioner, the petitioner is entitled for the relief to the extent of equating his scale of pay along with other Assistant Depot Clerks, unless they were granted any special increments on any of the specified grounds.

7. The writ petition is accordingly disposed of directing the respondents to consider the representation of the petitioner
dated 25-10-1996 and pass appropriate orders, within a period of six weeks from the date of receipt of a copy of this order. No costs.

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(S.ANANDA REDDY,J)

Dt.10-09-2004.

Msr.

To

1 The Managing Director,
APSRTC , Musheerabad, Hyderabad.
2 The Regional Manager, APSRTC,
Vijayawada , Krishna Dist.
3 The Depot Manager, APSRTC,
Vidyadharapuram Depot, Krishna Dist.

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**HON'BLE SRI JUSTICE S.ANANDA REDDY**

**WRIT PETITION No.5009 of 1997**

**Dt.10-09-2004.**

**(Msr)**